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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
Equal Access and Interconnection )  
Obligations Pertaining to )  
Commercial Mobile Radio Services )

CC Docket No. 94-54

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Comments of SNET Cellular, Inc.

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## SUMMARY

SNET Cellular supports the Commission's tentative conclusion that mandatory interconnection between CMRS licensees and between CMRS licensees and resellers should not be imposed on CMRS carriers at this time. Any such mandate would impose on CMRS carriers a network and operational configuration that is not proven technically and may make no sense economically given their network investment and the technical configurations of those networks. As a result, such interconnection obligations in the competitive CMRS market may impose detrimental costs on CMRS providers, as well as create significant technical and operational risks for CMRS systems. Clearly, in a competitive CMRS market, competitive forces will drive carriers to maximize their network investment and will be an effective check to inefficient behavior. Therefore, the Commission is correct in ascertaining that such interconnection decisions should be determined by the competitive CMRS marketplace, rather than imposed by regulation upon CMRS providers.

SNET Cellular also urges the Commission to preclude states from imposing interconnection obligations on CMRS providers. The multitude of divergent state regulations that would result if each state is permitted to adopt its own interconnection regulations would impede the federal goal of a seamless national wireless network. Moreover, state interconnection obligations would impose additional costs on CMRS providers that would have to redesign their systems that operate across state boundaries so that those systems comport with the divergent regulations.

With respect to the imposition of resale obligations, the Commission should keep three goals in mind in considering the issues posed in this proceeding: (1) parity among all CMRS providers; (2) the public interest in rapid deployment of new facilities and maximum use of the radio spectrum by new licensees; and (3) the increased capacity and additional investment which would be entailed as a result of any requirement that one carrier serve its competitor's demand for a limited period of time. These criteria lead SNET Cellular to support the Commission's tentative decision to extend the general resale obligations currently applicable to cellular licensees to *all* CMRS providers. With respect to imposition of resale obligations toward new facilities-based competitors, however, SNET Cellular urges that the Commission carefully balance the perceived interest in "jump-starting" new licensees against the countervailing goals of encouraging the rapid roll-out of new networks and the inappropriateness of requiring incumbents to build out extra capacity to serve an artificial increase in demand. Moreover, unlike the early days of cellular deployment, there are now at least two active CMRS licensees in each market. Accordingly, SNET Cellular suggests that the appropriate "window" for resale by facilities-based carriers in the same market is 18 months.

Finally, SNET Cellular urges that the Commission not adopt number portability policies or rules in the context of its CMRS resale policies. As the Commission is aware from its consideration of this issue in the wireline setting, there are significant technical and industry issues which must be resolved before number portability is available. Moreover, in the context of CMRS resale by non-facilities-based carriers, where end user customers generally make a choice as to the underlying facilities-based carrier in

subscribing to wireless service, any such policy must also consider safeguards to protect those end user choices when any bulk transfer of carrier services is proposed by a reseller. Accordingly, it would be premature for the Commission to adopt rules and policies in the context of this proceeding.

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Comments of SNET Cellular, Inc.

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SNET Cellular, Inc. ("SNET Cellular"), a wholly owned subsidiary of the Southern New England Telecommunications Corporation, pursuant to the Commission's Second Notice of Proposed Rule Making,<sup>1/</sup> hereby files its comments regarding the Commission's proposals with respect to the interconnection and resale obligations between and among commercial mobile radio service ("CMRS") providers. SNET Cellular strongly agrees with the tentative conclusions drawn by the Commission that it is not in the public interest to impose interconnection obligations at this time. Such regulatory obligations are unnecessary in a competitive market, where the marketplace

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<sup>1/</sup> *In re Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, Second Notice of Proposed Rule Making*, CC Docket No. 94-54, FCC 95-149, released April 20, 1995 ("Second Notice").

will determine whether interconnection is economically and technically feasible. In addition, SNET Cellular urges that the Commission further support development of a seamless cost effective national wireless infrastructure by precluding state-imposed interconnection obligations. In addition, we agree that it is appropriate to extend the current resale obligations imposed on cellular licensees with respect to non-facilities-based resellers to new CMRS entrants to assure parity in the competitive marketplace. We also urge that the Commission carefully tailor any "start up" resale obligation toward facilities-based carriers in a manner which minimizes any disincentive to rapid network deployment and adverse impact on the network planning and investment of the underlying carrier. Finally, SNET Cellular urges that the Commission not adopt any rules or policies with respect to number portability in the context of its CMRS resale policies, but rather that it consider such issues in connection with the overall industry examination of this issue and that it assure, in any such policy, that the carrier choices of CMRS end users are solicited and preserved.

## **I. INTRODUCTION AND STATEMENT OF INTEREST**

In this proceeding, the Commission seeks additional comments on CMRS interconnection issues, including its tentative conclusion that interconnection mandates between CMRS licensees and between CMRS licensees and resellers are not in the public interest; whether, in the interest of establishing a seamless nationwide wireless infrastructure, it should preempt state interconnection requirements; whether and to what extent it should extend existing cellular resale requirements to other CMRS licensees;



and whether and for what period of time it should require CMRS licensees to resell service to their facilities-based competitors. SNET Cellular submits these comments in response to these issues, all of which are of particular interest to SNET Cellular as an active (and expanding) participant in the increasingly competitive CMRS market.<sup>2/</sup>

SNET Cellular is the parent company of SNET Springwich, Inc., which in turn is the General Partner in Springwich Cellular Limited Partnership ("SCLP"). SCLP is the Band B cellular licensee in the five New England County Metropolitan Areas (NECMAs) of Bridgeport, Hartford, New Haven, and New London, Connecticut, and Springfield, Massachusetts, and the Rural Service Areas (RSAs) of Windham and Litchfield Counties, Connecticut, and Franklin County, Massachusetts. SNET Cellular has announced plans to expand its current operations by acquiring in the near future Bell Atlantic's Band A systems throughout Rhode Island (Providence, New Bedford, Newport), and NYNEX's Band B System in Pittsfield, Massachusetts.

These combined SNET Cellular operations are and will be a major component of the northeast wireless market. In that highly competitive market, the Company faces vigorous existing competition from major nationwide cellular companies, such as Bell Atlantic and AT&T/McCaw in Connecticut and, once its pending acquisition is closed, the

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<sup>2/</sup> Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service, CC Docket No. 94-54, *Notice of Proposed Rule Making and Notice of Inquiry*, 9 FCC Rcd. 5408 (1994) ("*Equal Access NPRM and NOI*"). SNET Cellular's affiliate, SNET Mobility, Inc., filed comments on equal access and other issues pursuant to the Commission's earlier Notice of Proposed Rule Making and Notice of Inquiry in this proceeding. In its comments, SNET Mobility asserted that mandatory equal access for, and interconnection among, CMRS providers is not in the public interest.

Bell Atlantic/NYNEX, joint venture in Massachusetts and Rhode Island. Situated in the heart of the New York/Boston corridor, the SNET Cellular companies will also face competition from new CMRS entrants with major financial resources, such as WirelessCo (Sprint/TCI/Cox/Comsat), Nextel Communications, AT&T Wireless, and Omnipoint. Given these nationwide competitors, regional CMRS licensees, such as SNET Cellular, must be innovative and respond quickly to market needs. Indeed, in order to compete successfully with their formidable competitors, companies like SNET Cellular must be even more nimble than their larger competitors. Certainly, therefore, SNET Cellular will consider all opportunities to expand its business base. Importantly, however, as the Commission's tentative interconnection conclusions recognize, a CMRS company like SNET Cellular must be permitted to base its operational and marketing decisions on sound business judgment and analysis of the economic and technical feasibility of particular strategies, and *not* have those decisions driven by regulatory fiat.

Therefore, SNET Cellular has a significant interest in proposals that seek to impose a regulatory interconnection mandate, as well as a significant interest in issues addressing resale obligations and state-imposed interconnection requirements. Accordingly, SNET Cellular submits these Comments to address the foregoing concerns.

## **II. SNET CELLULAR SUPPORTS THE COMMISSION'S TENTATIVE DECISION NOT TO IMPOSE MANDATORY INTERCONNECTION ON CMRS PROVIDERS**

SNET Cellular supports the Commission's tentative decision in its *Second Notice* not to impose any interconnection obligations upon CMRS providers, including a CMRS-

to-CMRS interconnection requirement<sup>3/</sup> and the NCRA's reseller switch proposal.<sup>4/</sup> Mandating interconnection is unnecessary given the competitive nature of the CMRS market. The Commission is correct to let the market decide the technical and economic feasibility and desirability of interconnection arrangements. Otherwise, if the Commission were to mandate interconnection in the increasingly competitive CMRS market, it would impose detrimental costs on CMRS providers, as well as create significant technical and operational risks for CMRS systems. These concerns are true with respect to both types of interconnection. The reseller switch proposal has not been shown to be technically or economically feasible. Moreover, with regard to adoption of a reseller switch requirement for other CMRS carriers and for CMRS-to-CMRS interconnection, the Commission is correct in determining that imposing such an obligation on CMRS providers is similarly unnecessary in a competitive marketplace, and in addition is speculative and inappropriate at this time given that the networks of the new CMRS entrants have yet to be configured. SNET Cellular therefore supports the Commission's conclusion not to impose interconnection obligations on CMRS providers, but rather to leave such interconnection decisions to CMRS providers operating in a competitive market.

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<sup>3/</sup> *Second Notice* at 16-18, paras. 28-32.

<sup>4/</sup> *Id.* at 47-48, paras. 95-97.

**A. Additional Regulations Governing Interconnection are Not Necessary or Appropriate in a CMRS Market.**

The federal regulatory scheme for CMRS providers is premised on a competitive marketplace that does not require onerous regulations to ensure nondiscriminatory access to facilities and services. The competitive CMRS market will properly facilitate interconnection arrangements without the need for additional regulations.<sup>5/</sup> The CMRS market in which SNET Cellular operates is sufficiently competitive to ensure that reseller interconnection will occur where it is economically feasible.<sup>6/</sup>

Regulations associated with interconnection have been implemented to address monopolistic control over bottleneck facilities. CMRS providers do not control bottleneck

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<sup>5/</sup> Comments of GTE Service Corporation at 46, filed September 12, 1994, in CC Docket No. 94-54 ("GTE Comments"); Comments of McCaw Cellular Communications, Inc., at 6-9, filed September 12, 1994, in CC Docket No. 94-54 ("McCaw Comments"); Comments of Comcast Corporation at 16-17, filed September 12, 1994, in CC Docket No. 94-54 ("Comcast Comments"); Comments of BellSouth at 12-14, filed September 12, 1994, in CC Docket No. 94-54 ("BellSouth Comments").

<sup>6/</sup> In its recent decision regarding a petition to continue rate regulation of wholesale cellular providers, the Commission recognized the emergence of CMRS competitors, such as personal communications service ("PCS") and enhanced specialized mobile radio ("ESMR") service providers, to cellular providers in the Connecticut market. *In re* Petition of the Connecticut Department Public Utility Control to Retain Regulatory Control of the Rates of Wholesale Cellular Service Providers in the State of Connecticut, *Report and Order*, PR Docket No. 94-106, FCC 95-199, at 32, paras. 68-69 (released May 19, 1995) ("*Connecticut Petition Report and Order*"). Indeed, SNET Cellular is operating in increasingly competitive markets in Connecticut, the Boston Major Trading Area ("MTA"), and the New York MTA. For example, in addition to SNET Cellular's cellular competitors in the Connecticut, Massachusetts and Rhode Island markets, WirelessCo will soon be a broadband PCS licensee in Connecticut, AT&T Wireless will be a broadband PCS licensee in the Boston MTA, Omnipoint will provide broadband PCS in the New York MTA, and Nextel, an enhanced specialized mobile service provider, is actively building its infrastructure in Connecticut.

facilities, however, and increased regulatory oversight with regard to interconnection is unnecessary. In fact, mandatory interconnection requirements would burden an already competitive market with unnecessary regulation and would impede SNET Cellular's ability to compete effectively in its markets. Forcing these regulatory requirements on competing CMRS providers will in effect subsidize those seeking interconnection, while reversing the competitive market benefits of efficiency, as well as draining financial resources and incentives to promote innovative, technologically-advanced networks. Simply put, additional regulation in an already competitive market will have a negative impact on the benefits of competition. The Commission correctly recognizes this effect and appropriately decides to refrain from burdening the CMRS market with unnecessary interconnection regulation. SNET Cellular supports the Commission's decision.

**B. The Cost Savings and Network Efficiencies Set Forth as Benefits of Interconnection May Prove Illusory and Do Not Justify Regulatory Intervention in the Marketplace**

Apart from the inappropriateness of imposing a burdensome regulatory mandate in a competitive market, interconnection in a wireless environment poses unique technical and cost issues. While the concept of interconnection and unbundling of wireless networks may have a superficial appeal in theory, from a purely technical standpoint it is clearly premature for any conclusions to be drawn that the absence of such arrangements connotes anti-competitive behavior or the failure of the marketplace.

**1. Imposing the NCRA's Reseller Switch Proposal on CMRS Providers Could Increase Costs for CMRS Providers and Their Customers**

Unlike many of the Commenters on this issue, SNET Cellular has not had an opportunity to evaluate in detail a reseller switch interconnection request.<sup>7/</sup> Based on what SNET Cellular has observed from the comments filed regarding the California cellular carriers' experience and its own more limited analysis of these issues to date, however, the increased costs associated with NCRA's reseller switch proposal may possibly outweigh the benefits of interconnection for switch-based resale. As several commenters in this proceeding have pointed out, mandatory reseller interconnection could actually *increase* costs for CMRS carriers even if resellers provide their own switches and administer other associated functions.<sup>8/</sup> For example, reseller interconnection would likely require the addition of ports to the cellular switch in order to accommodate the inter-switch trunks, resulting in an expense that may not be offset by any savings to cellular carriers.<sup>9/</sup> In addition, if reseller interconnection is mandated, a cellular carrier will be forced to route a reseller's mobile-to-mobile call through the cellular carrier's switch to the reseller's switch and back through the cellular carrier's

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<sup>7/</sup> SNET Cellular's affiliate SCLP has recently received a request for such interconnection, but has not yet received the technical specifications or sufficient detail as to the proposal to enable it to make a determination as to the costs that would be imposed on SCLP to implement such a request, or to determine whether such a proposal is technically feasible. Consistent with its interest in exploring opportunities to increase its operating efficiency and market share, SCLP has indicated to the requesting reseller that it would welcome additional information so that it can evaluate the proposal.

<sup>8/</sup> GTE Comments at 46-47; Reply Comments of New Par Reply at 6, filed October 13, 1994, in CC Docket No. 94-54 ("New Par Reply Comments").

<sup>9/</sup> GTE Comments at 46-47.

switch.<sup>10/</sup> This process may not only increase the cost of providing service, it may also degrade the quality of the performance of the cellular network without any corresponding benefit to the end user.

These increased costs are further compounded by the duplication of facilities that might result under the reseller switch proposal. Even if resellers install their own switches and other associated facilities, cellular carriers will still have to maintain separate customer databases, verify users, validate roaming, and route service to reseller switches.<sup>11/</sup> Airtouch in its Comments notes that "duplicate switches do not improve voice quality, expand system coverage, or introduce new features valued by wireless subscribers."<sup>12/</sup> Rather, in this instance, duplicate switches might actually result in costly inefficiencies. For example, call recordation and billing records would likely have to be duplicated to resolve billing disputes adequately.<sup>13/</sup> Moreover, in addition to having to maintain duplicate customer databases, call validation would likely require more processing time. As the foregoing illustrations demonstrate, the increased costs of reseller switch-based interconnection, as well as the resulting duplication of facilities, might not outweigh any benefits associated with requiring such interconnection.

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<sup>10/</sup> New Par Reply Comments at 7.

<sup>11/</sup> New Par Reply Comments at 6.

<sup>12/</sup> Comments of Airtouch Communications at 26, filed September 12, 1994 in CC Docket No. 94-54 ("Airtouch Comments").

<sup>13/</sup> *Id.*

As such, the Commission should permit the competitive market to determine whether a request for reseller switch-based interconnection is economically and technically feasible.

**2. The Imposition of a CMRS-to-CMRS Interconnection Obligation Also Raises Concerns as to Technical and Economic Feasibility**

For all of the reasons set forth above with respect to a reseller interconnection mandate, any requirement by the Commission that CMRS providers must interconnect their networks must also be rejected. First and foremost, the Commission is correct that there is no need for regulatory intervention in a competitive marketplace. That marketplace will assure that licensees will seek to connect their networks as efficiently as possible. Moreover, the reseller switch proposals have not yet demonstrated their economic merit or technical feasibility. In the case of new CMRS entrants, whose networks are still in development, it would be even more premature to impose carrier-to-carrier interconnection requirement, since the technical considerations cannot be assessed, and the cost ramifications will only be known once those networks are fully in place in the market.

**3. Given the Potential Costs and Burdens of an Interconnection Mandate, Adoption of Any Such Requirement Must Be Applicable to All Carriers in the Marketplace**

As noted above, SNET Cellular strongly supports the Commission's tentative conclusion not to adopt any mandatory interconnection obligations for CMRS carriers. Should it determine to do so, however, it is essential that any such obligation be imposed equally on all CMRS carriers. Already the Commission has seen in this proceeding an effort by some new entrants to be excused from some of the requirements



which they assert should be applied to other carriers.<sup>14/</sup> Clearly, given the potential adverse impact upon CMRS licensee costs, network and equipment investment, and service quality, any regulatory requirement of interconnection imposed on such licensees must apply to all licensees.

### **III. THE COMMISSION SHOULD PRECLUDE STATES FROM IMPOSING INTERCONNECTION OBLIGATIONS ON CMRS PROVIDERS**

In its *Second Notice*, the Commission seeks additional comment on whether the Commission should preempt state-imposed interconnection obligations.<sup>15/</sup> SNET Cellular urges that the Commission exercise its preemption authority with regard to state-imposed interconnection obligations on the grounds that: *first*, as indicated above, interconnection obligations are not required in a market as competitive as the CMRS market is today; and *second*, a multitude of state regulations would impose additional and divergent costs on CMRS providers operating in more than one state, with the likely result that the federal goal of a seamless national network would be impeded. The nature of CMRS service, in particular, supports this outcome. As Congress has found, a national policy on interconnection will facilitate "the growth and development of mobile

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<sup>14/</sup> See, e.g., APC proposes that PCS providers should have no obligation to resell service to their facilities-based cellular competitors but that cellular carriers should have a perpetual unlimited obligation to permit PCS providers to resell their services. Comments of American Personal Communications, at 8, filed September 12, 1994, in CC Docket No. 94-54 ("APC Comments") (*cited at Second Notice* at 44, para. 88).

<sup>15/</sup> *Second Notice* at 23, para. 44. The Commission first raised this issue of preemption in its Notice of Inquiry in this proceeding. See *Equal Access NPRM and NOI*, 9 FCC Rcd. at 5468.

services that by their nature, operate without regard to state lines."<sup>16/</sup> State- imposed interconnection requirements will impede this growth by forcing cellular providers to meet costly and burdensome regulatory hurdles that circumvent the federal goal of a national wireless network.

In denying state petitions to retain rate regulation over CMRS providers, the Commission noted that the legislative history of the 1993 Budget Act makes it clear that Congress intended for the Commission "to establish a *national* regulatory policy for CMRS, not a policy that is balkanized state-by-state."<sup>17/</sup> In furtherance of that policy objective, Congress has already preempted state regulation over CMRS interconnection rates.<sup>18/</sup> SNET Cellular agrees with McCaw's comments that such a national regulatory policy is necessary to ensure the goal of a seamless national wireless infrastructure. Permitting state-imposed interconnection obligations would thwart this federal goal because CMRS providers will be forced to design their facilities in a manner that comports with divergent regulations. Not only will this create additional costs for CMRS providers, it will prevent them from engineering their networks to serve customers on a nationwide or regionwide basis.

For example, as noted in McCaw's comments, a multitude of state regulations governing interconnection arrangements would impose additional costs on cellular

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<sup>16/</sup> H.R. Rep. No. 213, 103d Cong., 1st Sess. 494 (1993).

<sup>17/</sup> See *Connecticut Petition Report and Order* at 9-10, para. 14.

<sup>18/</sup> See *Equal Access NPRM and NOI*, 9 FCC Rcd. at 5468-69.

systems that are served by centralized signalling hubs that support multi-state regions.<sup>19/</sup> Permitting each state to regulate interconnection to CMRS facilities will create costly operational and technical difficulties for CMRS providers, whose markets are based on Cellular Geographic Service Areas ("CGSAs"), Basic Trading Areas ("BTAs") and MTAs that cross state boundaries. Having interconnection obligations in one state and not a neighboring state poses significant problems for CMRS providers that seek to implement their infrastructure based such non-state specific boundaries. Individual state regulations governing interconnection also will lead to additional costs and inefficiencies that will only serve to impede competition.

#### **IV. THE COMMISSION SHOULD CAREFULLY TAILOR ITS RESALE POLICY TO PROMOTE COMPETITION**

##### **A. The Commission Should Assure Parity Among CMRS Providers by Extending the Same Resale Obligations to All Carriers**

The Commission's *Second Notice* also seeks comment on the extent to which it should impose resale obligations on CMRS licensees. SNET Cellular urges that Commission to keep three goals in mind in considering this issue: (1) parity among all CMRS providers; (2) the public interest in rapid deployment of new facilities and maximum use of the radio spectrum by new licensees; and (3) the increased capacity and additional investment which would be entailed as a result of any requirement that a carrier meet its competitor's demand for a limited period of time.

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<sup>19/</sup> McCaw Comments at 19.

These criteria lead SNET Cellular to support the Commission's tentative decision to impose on *all* CMRS providers the same general resale obligations currently applied to cellular providers.<sup>20/</sup> As noted in the Commission's *Equal Access NPRM and NOI* in this proceeding, the Commission should structure its CMRS regulations in a manner that "ensures that competitors providing identical or similar services will participate in the marketplace under similar rules and regulations."<sup>21/</sup> Requiring *all* CMRS licensees to provide resale capacity to non-licensees maintains the parity the Commission's CMRS regulatory framework aims to achieve.<sup>22/</sup>

**B. The Duration of "Start-Up" Resale Obligations Must Balance the Interest in "Jump Starting" New Entrants Against the Substantial Burdens Placed on the Underlying Carrier's Capacity Planning and Network Investment and the Risk that Such a Policy Would Serve as a Disincentive to Rapid Network Deployment**

The question of resale requirements between and among CMRS carriers must

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<sup>20/</sup> *Second Notice* at 42-44, paras. 83-87. In this regard, SNET Cellular urges that the Commission reject arguments that certain categories of CMRS services should be excluded from its general resale obligations. *E.g.*, *Second Notice* at 35-36, paras. 68-69. As Congress recognized in the Budget Act, there is a substantial interest in ensuring parity of regulation among *all* CMRS providers. Moreover, consistent with the Commission's findings as to the benefits of resale, *Second Notice* at 43, para. 84, there is no basis to assure that such benefits are not equally applicable to *all* segments of the commercial wireless industry.

<sup>21/</sup> *Equal Access NPRM and NOI*, 9 FCC Rcd. at 5466 (citing the *CMRS Second Report and Order*, 9 FCC Rcd. at 1420).

<sup>22/</sup> In this regard, SNET Cellular urges the Commission to clarify that there should be no limitation on the ability of a CMRS licensee in one market to resell as a non-licensee the services of another CMRS licensee in another market. Such a prescription would promote competition and facilitate nationwide or regionwide networks.

also be carefully considered by the Commission. SNET Cellular understands the public interest in assuring the rapid entry of new competitors into the wireless market and the Commission's consideration of a resale policy which permits that to happen while new carriers' networks are being deployed. Unlike the early days of cellular deployment, however, there are now at least two active CMRS licensees in each market; a fact which SNET Cellular submits obviates in whole or at least in part the need for a government-mandated start-up "window" for new carriers. Moreover, such a regulatory policy would impose significant investment risks on the underlying carriers who would be required to supply capacity during the window period to serve a demand which, at a point in time in the future, will leave the carrier's network. Finally, any resale obligation established by the Commission should not be so broad as to disincent a new entrant from the rapid construction of its network.

Accordingly, in considering whether to adopt a start-up resale obligation and, if so, the appropriate duration of that window, the Commission should balance the perceived interest in "jump-starting" new licensees against the countervailing goal of encouraging the rapid roll-out of new networks and avoiding costly build out of extra capacity by incumbents to serve an artificial increase in demand. Clearly, depending upon their vantage point in the marketplace, there is a significant divergence of opinions among the Commenters as to what the result of this analysis should be.<sup>23/</sup> Nextel, for example, urges that no "start up" resale requirement is needed in light of the competition

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<sup>23/</sup> See *Second Notice* at 46, para. 92 n. 185.

in the CMRS marketplace.<sup>24/</sup> APC, at the other extreme, urges that the Commission to require cellular carriers to provide resale capacity to facilities-based CMRS competitors *indefinitely*.<sup>25/</sup>

The *Second Notice* correctly recognizes that the Commission's analysis of the need for any regulatory start up resale obligation should not look solely at its earlier experience in the cellular marketplace, where the non-wireline licensees had only one source of network carrier prior to initiating the operation of their own cellular systems. Given the presence of at least two operational CMRS licensees (and more as the systems of ESMR providers and PCS providers become active), the Commission's focus should also consider that *any* resale requirement lessens a new licensee's incentive to build out its system and to make it fully operational in as expeditious a manner as possible.<sup>26/</sup> Moreover, such a requirement places substantial burdens on the underlying carrier's capacity planning and investment risk, since it will need to provide capacity to a competitor on a short-term basis.<sup>27/</sup> (And, we note, that burden will be

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<sup>24/</sup> Comments of Nextel Communications, Inc., at 19-20, filed September 12, 1994, in CC Docket No. 94-54 ("Nextel Comments").

<sup>25/</sup> APC Comments at 8. Whatever the window adopted by the Commission, it should apply equally to *all* facilities-based CMRS carriers. Clearly, the third entrant should have the same obligations as the first two, and so on as new facilities-based carriers establish competing networks.

<sup>26/</sup> Reply Comments of AT&T Corporation at 15, filed October 13, 1994, in CC Docket No. 94-54 ("AT&T Comments"); Comments of Bell Atlantic Companies at 18, filed September 12, 1994 in CC Docket No. 94-54 ("Bell Atlantic Comments"); BellSouth Comments at 24-25; McCaw Comments at 22 n.56; New Par Comments at 9; Comments of Rochester Telephone at 12-13, filed September 12, 1994, in CC Docket No.94-54 ("Rochester Telephone Comments").

<sup>27/</sup> BellSouth Comments at 24; New Par Comments at 8-9.

disproportionately felt by the smaller carriers in the market.) In addition, a window of any duration will automatically be extended by virtue of the fact that not all new licensees will enter the market at the same moment.<sup>28/</sup>

After balancing all of these factors, SNET Cellular agrees with AT&T and McCaw that an 18-month start-up window may be the most appropriate and, we submit, should be applied to *all* facilities-based CMRS carriers.<sup>29/</sup> This period, which extends beyond the initial construction period for most CMRS services,<sup>30/</sup> would allow new entrants a reasonable period to "jump start" their services prior to network operation without placing an overly costly and burdensome obligation on the underlying carriers to build out network facilities to serve short term customer demand. In addition, this reasonable window period will not have the detrimental effect of disincenting new entrants from rapid deployment of their own fully operational networks, which impact could result from a longer window.

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<sup>28/</sup> Thus, for example, a one-year start-up window will actually likely be several years in actual duration, as the new licenses are granted, and the construction of the new networks gets underway.

<sup>29/</sup> AT&T Reply Comments at 15; McCaw Comments at 22 n.56; *see also* BellSouth Comments (urging that the Commission adopt a shorter period than the 5-year window adopted in the cellular context); Rochester Telephone Comments at 12-13 (urging that the Commission adopt a short, interim period); Bell Atlantic Comments at 18.

<sup>30/</sup> See New Par Comments at 9 (advocating a one-year start-up window on the ground, among other things, that it coincides with the initial construction period of most CMRS systems).

**C. It is Premature for the Commission to Adopt Any Policy or Mandate With Respect to Number Portability**

The Commission also requests comment on whether it should make number portability a part of its resale policy.<sup>31/</sup> As the Commission recognizes, number portability issues are important in both the wireline and wireless settings. To a significant extent, the same technical feasibility considerations arise, and number portability cannot occur, in either arena until those issues are resolved throughout the telecommunications network.

Moreover, in the CMRS context, at least insofar as resale has developed with respect to cellular services, number portability which would permit "resellers to use their ability to move their customers and their numbers to other facilities-based providers," *id.*, raises certain "slamming" concerns. As the Commission is well aware, unauthorized carrier changes in the wireline interexchange market have been an ongoing source of consumer frustration and complaints. Any Commission policy with respect to CMRS number portability must consider carefully and protect against any possibility that a CMRS subscriber's carrier choice could be similarly overruled without the subscriber's knowledge and consent. Unlike the wireline setting where resellers typically offer service in their own name without regard to the underlying facilities-based carrier, in the cellular setting resellers typically offer their customers access to a particular carrier or, in many instances, permit their customers to choose between the two carriers based upon coverage, market name recognition, or other factors. Clearly, in this arena, there would

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<sup>31/</sup> *Second Notice* at 47, para. 94.



need to be a safeguard in place so that end user customer consents to carrier changes are obtained prior to any bulk transfer of cellular numbers to another carrier.

## **V. CONCLUSION**

For the foregoing reasons, SNET Cellular strongly urges the Commission to adopt its tentative conclusion that it is not in the public interest to mandate interconnection between CMRS licensees and between CMRS licensees and resellers at this time. Moreover, SNET Cellular urges the Commission to preclude state-imposed interconnection requirements so as to ensure the development of a seamless national wireless infrastructure. SNET Cellular also agrees with the Commission that it is appropriate to extend the resale obligations with respect to non-facilities-based resellers which currently are applicable to cellular licensees to *all* CMRS carriers to ensure regulatory parity. However, SNET Cellular urges the Commission to balance the perceived interest in using resale obligations to "jump start" new facilities-based CMRS entrants against the countervailing goal of encouraging the rapid deployment of the new CMRS networks and avoiding imposing costs and unnecessary facility investment on the underlying carriers which would stem from such a resale obligation. Accordingly, SNET Cellular submits that an 18-month start-up "window" applicable to all facilities-based CMRS providers may be the most appropriate balance of these interests. Finally, SNET Cellular urges the Commission not to adopt any policies or regulations governing number